IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 1620 OF 2005.

Smt.Kusum Baburao Mohadkar & ors. ... Appellants.

Versus.

Shalivahan Ranchoddas Ashar & ors. ... Respondents.

Shri M.S.Karnik for the Appellants.

CORAM : ABHAY S.OKA, J.

DATED : 24th MARCH, 2006.

P.C.:

1. Heard the learned Advocate for the Appellants. The Courts below have recorded a finding that the vendor of the Appellants had no title in respect of the suit land.

2. In the present suit filed by the Appellants, their contention is that the decrees passed in two suits in which they were not parties are not binding on them.

3. Both the Courts below have recorded a concurrent finding of fact and have negatived the claim of the Appellants. Both the Courts have recorded findings of fact that the Appellants have failed to prove that the decrees passed in the two suits were obtained by practicing fraud. The Courts below have found that the Appellants were aware at the relevant time about the pendency of the said two suits.

4. In view of the failure of the Appellants to establish fraud no fault can be found with the impugned Judgments and decrees. Second Appeal is, therefore, dismissed.

Judge.